

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
Civil Action No: 5:05-CV-00026**

ERIC ESANCY,

Plaintiff,

v.

JAMES T. QUINN,

Defendant.

**DEFENDANT'S MOTION TO DISMISS
AND MOTION FOR SUMMARY
JUDGMENT**

Defendant James T. Quinn moves this Court for an Order dismissing the Complaint because Plaintiff has failed to prosecute his suit. Defendant also moves this Court for an Order granting him summary judgment because Plaintiff has failed to produce any evidence sufficient to establish the elements of his claims. The grounds for this Motion are set forth in the accompanying Memorandum of Law.

This the 6th day of November, 2006.

s/ Jonathan C. Krisko

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **DEFENDANT'S MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

C. Gary Triggs
gtriggs@trigglaw.com

This 6th day of November, 2006.

Respectfully submitted,

s/ Jonathan C. Krisko
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